



Rahm Emanuel
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

April 29, 2019

Mr. Brandon Smith
71027-92648495@requests.muckrock.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST
REQUEST RECEIPT DATE: April 15, 2019
FOIA FILE NO.: P483059

Dear Mr. Smith:

The Chicago Police Department is in receipt of your Freedom of Information Act (FOIA) request for the following:

"1. Documents that show what kind of a database your agency's email is stored in (such as Microsoft Access; Oracle; Microsoft Sharepoint; SQL; or Microsoft Exchange).

2a. Documents sufficient to show any FOIA management software or email search software (not including the client one uses to read and reply to email) in use by your agency. These documents could include purchase orders, contracts for use of a service, or—if and only if neither of those are available—some departmental communication portraying the name of the system.

2b. Any vendor-provided manuals or instructions or software documentation for software used by the agency to search emails

2c. Complete copies of any rules, guidelines, instructions, or best practices in use by your agency for searching emails and texts in response to FOIA requests

3. Documents that show all of, and represent the entirety of each of, your agency's contracts with cell/mobile service providers (sometimes called carriers). Also we request any documents that describe a deletion schedule for text messages sent to/from the devices on your agency's provider contract. For this purpose, "deletion schedule" means a number of days before messages are regularly deleted from the carrier's data repositories. Such a schedule would also specify whether that date is a rolling daily deletion after that many days, or rather periodical, where the number of days represents the period.

4a. Keyword searches of all SMS ("text") records sent to and received by all sworn officers on agency-issued mobile devices

4b. Keyword searches of all emails sent to and received by sworn officers on agency email accounts.

- For the keywords on 4a and 4b, please refer to the list at the bottom of this request. Date range is four

months prior to the date of the request until the date of the request. Please provide the requesters evidence that your search was agnostic toward capital and lowercase letters throughout each searched character string.

- For each returned *email or SMS* result, please include the following metadata: unique sender identification; unique recipient identification; date and time of transmission; and document(s) sufficient to show the full name of the officer associated with the unique identifier. (An example of unique sender/recipient identification would be an email address or a phone number, depending on the type of record.)

5a. Documents that show what, if any, text-based messaging clients or platforms (you might call them software-based "systems" for messaging, or "instant messaging") are available for use on computers in your patrol cars. Also we request documents that show what public body maintains or is responsible for each of those clients/platforms. For instance, sometimes a messaging system is maintained and offered by a state agency like highway patrol; other systems are built or contracted-for locally, by your jurisdiction itself. We request the above-described documents on any and all messaging systems deployed on a computer in a police vehicle in your jurisdiction.

If your jurisdiction maintains/provides its own software on in-car computers for "instant messaging"—and therefore is the keeper of records associated with the system, including historic message logs—I request:

5b. Documents sufficient to show what kind of a database that messages crossing the in-car messaging system are stored in. (Examples might be Microsoft Access; Oracle; SQL or similar). The file extension of the message logs will suffice.

5d. Keyword searches of databases containing messages sent and received over the in-car computers' instant messaging system. For the keywords that requester(s) would like searched, please refer to the list at the bottom of this request. Date range is four months prior to the date of the request until the date of the request. Please provide the requesters evidence that your search was agnostic toward capital and lowercase letters throughout each searched character string.

- For each returned *in-car IM* result, please include the following metadata: unique sender identification; unique recipient identification; date and time of transmission; and document(s) sufficient to show the full name of the officer associated with the unique identification. An example of unique sender/recipient identification would, in the case of a car-to-car instant message, be some kind of username corresponding to an officer, or, if and only if an officer identifier is not extant, an identifier for a particular computer or patrol car.

6. Documents that provide evidence of any search your jurisdiction that either the department itself or the public body of which it's a part has undertaken, in the five years prior to the date of this request, for racist, race-biased, or white supremacist terminology. This would include any searches undertaken of text messages, emails, or instant messages, for example, those IMs to and from in-car computers. It need not include an internal investigation of any single officer. Rather, we seek documents that show a search of communications to/from groups of officers, ranging up to the entire department. We seek documents that show the date of the search; the rationale or reason for the search; the search terms used; the name of the public official who requested the search; the total number of officers whose communications were searched (and if a subset of a department, the reason for choosing that subset); the type of communications searched; and any summary of the result(s) of any search. If no document exists that can be construed as a summary of search results, we request the full results of any search.

Please take under advisement:

Communications that contain these terms, if in use by a law enforcement officer, are public and not

personal records. Police officers interact directly with a diverse public and any expressions of potentially prejudicial or biased sentiments relate directly to an officer's job responsibilities and performance. They are undoubtedly subject to disclosure. In the event you cite an ongoing investigation as a reason for withholding a particular record, we ask, as a part of this records request, for a document that shows the date (nothing more) of the last internal communication in the investigation.

Nearly every state, yours included, defines a public record as any record that a public body is in "control" of, not just in the "possession" of. This provides for situations where records are stored in the care of a third-party storage facility, or some kind of technology vendor that provides data storage or communications services to the public body in question. To the extent a technology vendor is in possession of the records sought herein, this request, barring justified exemption, compels the public body to seek the requested documents from its technology vendor.

Should a FOIA officer have one or more questions about the request, please contact Brandon Smith via phone (740-505-0038) or the email address this request was sent from. Mr. Smith would be happy to hear from you.

It is not Mr. Smith's wish to overburden your office. An email or phone call is probably in order soon to discuss your office's standard for how much estimated time—say, for review toward redaction—constitutes an unduly burdensome request. That said, we believe the list of search terms contained herein is sufficiently culled to produce only a reasonably number of responsive records.

*Rarely does caselaw on what is and is not overly burdensome specify which type of employee is required for processing; the only relevant factor is estimated time by *a* staff member. In other words, if a search would be impossible or overly burdensome for a FOIA staffer, but an IT staffer can do it in ten minutes, then the law requires the public body to request an IT staffer complete the job. This is our purpose in asking for documents showing what type of database each record is stored in: the type of file determines what type of search is possible by a qualified IT staffer.*

This request is being made on behalf of Brandon Smith and on behalf of ProPublica.

Search terms list:

*nigger
spic
coon
monkey
white power
white genocide
1488
14/88
14 words
fourteen words
mud people
boot party
Curb job
hammerskin
hammer skin
Vinlanders
Blood & Honour
Blood & Honor
Blood and honor
Gab
mein*

heil
Reich
Muslim problem
White genocide
White civil rights
Knights
Filthy jew
Aryan
Confederate flag
Dixie
Diversity is a code word
Globalist
fashy
Chimp out
Chimpout
Goy
Kek
shekels
Kike
TRS
Shills
Identitarian
Stormfront
Daily Stormer
Identity Evropa
Identity Europa
Cultural marxist
Anti-white
White identity
Jewish Question
JQ
ZOG
Klansman
White pride
WPWW
Rahowa
Ghost skin."

As permitted by 5 ILCS 140/3(e), the time was extended in order to conduct a thorough search for these records. Your request was reviewed by the undersigned.

Parts 1, 2a, 2b, 2c, 3: In order to determine if CPD is in possession of responsive records, your request has been forwarded to the Bureau of Organizational Development – Finance Division, and the Bureau of Organizational Development – Finance Division. At this time, a response has not yet been returned as to whether or not there are records responsive to these parts of your request. As soon as a response is received them, your request will be responded to.

Parts 4a, 4b, and 6: It is determined that these parts of your request is denied. Section 3(g) of FOIA provides that “requests for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information.” 5 ILCS 140/3(g). While you have identified search terms and a time frame for part 4b, CPD has no automated mechanism by which to track or query for text/ email communications of only sworn officers. Therefore, your request for text/email communications is unduly burdensome as currently written. In order to effectively run a search, CPD needs (1) the email address(es) or employee name(s) of the

account(s) you wish searched; (2) key words you wish to search for; and (3) the timeframe to be searched. And this is not even inclusive of all other parts of your request. At this time your request as currently written has been interpreted as unduly burdensome. It should be emphasized that the Act neither requires nor allows CPD to speculate as to the details of any request; this information can only be provided by the petitioner. Pursuant to section 3(g) of FOIA, we would like to extend to you an opportunity to modify your request to make it more manageable. If you need assistance in narrowing your request, please contact me and I will assist you. Unless and until a new FOIA request is submitted that specifies what records you are seeking, CPD will be unable to process your petition. CPD encourages you to review your request to ascertain the details of your query. Once this is determined, a new FOIA request can be submitted to CPD, specifying the records you would like CPD to provide. In addition, for part 6, please be advised that the information provided is not sufficient for us to conduct a proper search. The information is too generalized. Without specific information, it is impossible to determine what records you are seeking.

Parts 5a, b, and d: It is determined that the Chicago Police Department does not maintain records responsive to these parts your request. Please note that each City department is a "public body" under Section 2 of FOIA, 5 ILCS 140/2(a). See *Duncan Publishing, Inc. v. City of Chicago*, 304 Ill. App 3d 778, 784, 709, N.E.2d 1281, 1286 (1st Dist. 1999). (Clearly, each of the individual departments are subsidiary bodies of the City and are "public bodies" as defined by the FOIA.) A FOIA request must be directed to the department or agency that maintains the records you are seeking.

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706. You may also seek judicial review pursuant to 5 ILCS 140/11 by filing a lawsuit in the Cook County Circuit Court.

If I can be of further assistance, you may contact me at (312)745-5308, or by mail at the below address.

Sincerely,

A. Shulruff
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653